

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING
PHARMACY, INC. PRODUCTS
LIABILITY LITIGATION

MDL No. 2419
Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:

All Actions

**JOINTLY PROPOSED AGENDA
FOR THE MAY 28, 2015 STATUS CONFERENCE**

The Plaintiffs' Steering Committee, Official Creditors' Committee, and Trustee jointly propose the following agenda for the May 28, 2015 status conference. All defendants whose counsel filed notices of appearance in the MDL have been given an opportunity to comment on this proposed agenda.

A. Motions for which oral argument is requested.¹

1. PSC's Cross Motion to Amend MDL Order No. 9 [Dkt. 1868]
 - a. Premier Reply and Opposition to PSC Cross Motion [Dkt. 1874]
 - b. Box Hill Motion for Stay or to Extend Common Issue Fact Discovery Deadline and Opposition to PSC Cross-Motion [Dkt. 1889]

B. Report to the Court.

2. Status of mediation efforts
 - a. Confirmation Order [Dkt. 1863]
3. Status of insurance declaratory actions:
 - a. *Certain Underwriters at Lloyd's, London v. Ameridose et al.*, 1:13-cv-12609-FDS; *Ironshore Specialty Ins. Co. v. Ameridose et al.*, 1:13-cv-13000-FDS
 - b. *State Farm Fire and Casualty Company v. Specialty Surgery Center PLLC, et al.*, 2:15-cv-00026 (M.D. Tenn.)

¹ The PSC will propose a separate agenda, requesting oral argument on fully briefed discovery motions, for the May 28, 2015, 11:30 a.m. discovery hearing before Judge Boal.

4. Status of discovery
 - a. Subpoena to FDA (*see infra*, #9)
 - b. MSM's Request to Defer or Abstain from Immediately Ruling on Pending Discovery [Dkt. 1762]
 - i. Saint Thomas Entities Response [Dkt. 1770]
 - ii. PSC Response [Dkt. 1789]
 - c. Order regarding Motion to Compel Insurance from Saint. Thomas Entities [Dkt. 1817]
5. Status of litigation track
 - a. Bellwether Submissions
 - i. PSC Memorandum on Initial Trial Setting and Pretrial Deadlines for the St. Thomas-Related Defendants [Dkt. 1867]
 - ii. Saint Thomas Entities' Proposal for Bellwether Trials [Dkt. 1870]
 - iii. TN Clinic Defendants Memorandum on Bellwether Trials [Dkt. 1871]
 - b. Motions re Pretrial Schedule
 - i. Saint Thomas Entities' Motion for Continuance of Common Issue Fact Discovery Deadline [Dkts. 1849, 1850, and 1851]
 1. TN Clinic Defendants' Notice of Joinder in 1849 Saint Thomas Entities' Motion for Continuance of Common Issue Fact Discovery Deadline [Dkt. 1877]
 - ii. Premier Motion for Extension of Time to December 15, 2015 for Common Fact Discovery [Dkt. 1852]
6. Report from *Pro Se* Liaison
 - a. Notice by PSC of Filing of Letter to Proposed Intervenor Re Motion to Intervene [Dkt. 1804]
7. Status of bankruptcy
8. Status of appeals
9. Schedule for future status conferences
 - a. June 24, 2015, at 11:30 a.m. (Boal) and 2:00 p.m. (Zobel)
 - b. August 5, 2015, at 11:30 a.m. (Boal) and 2:00 p.m. (Zobel)

C. Fully-briefed motions.

10. TN Clinic Defendants Motion to Compel FDA's Compliance with Subpoena [Dkt. 1775]
 - a. Motion to be heard at May 28 hearing before Magistrate Judge Boal
 - b. Magistrate Judge Boal's order setting briefing schedule [Dkt. 1776]
 - c. TN Clinic Defendants' Notice re Motion to Compel of Service of Motion on Non-Party [Dkt. 1777]
 - d. TN Clinic Defendants Notice re Postponement of Deposition [Dkt. 1778]
 - e. TN Clinic Defendants Certificate of Compliance with Local Rule 37.1 in support of Motion to Compel Response to Subpoena to the United States Food and Drug Administration [Dkt. 1793]
11. FDA Motion for Protective Order [Dkt. 1838]
 - a. TN Clinic Defendants Response [Dkt. 1881]
12. Motions to Quash by NECC, Affiliated Entities, and Insiders
 - a. Trustee Motion for Protective Order Pursuant to Fed. R. Civ. P 26(c) and 45(c) precluding the Tennessee Clinic Defendants from Conducting a Deposition [Dkt. 1810]
 - i. TN Clinic Defendants Response [Dkt. 1862]
 - b. Barry J. Cadden, Lisa Conigliaro Cadden, Gregory Conigliaro, Carla Conigliaro, Douglas Conigliaro, and Glenn A. Chin Motion for Protective Order and Motion to Quash Deposition Notices to the Invoking Defendants [Dkt. 1823]
 - i. TN Clinic Defendants Response [Dkt. 1865]
 - ii. Invoking Defendants' Reply, to be filed pursuant to Dkt. 1888 [forthcoming]
 - c. Ameridose Motion for Joinder in the Motion for a Protective Order filed by Certain Individual Defendants [Dkt. 1824]
 - d. GDC Motion for Joinder in the Motion for a Protective Order filed by Certain Individual Defendants and Motion for Protective Order [Dkt. 1826]
 - e. PSC Response to Motions for Protective Order [Dkt. 1839]

- f. GDC Motion to Quash [Dkt. 1836]
 - g. MSM Motion for Joinder in the Invoking Defendants' Motion for Protective Order [Dkt. 1854]
 - i. Premier Opposition [Dkt. 1860]
 - h. Saint Thomas Entities' Opposition re 1823, 1824, 1826, 1836, 1854 to the Invoking Defendants' Motions for Protective Orders and to Quash Deposition Notices [Dkt. 1869]
 - i. Insiders' Motion for Leave to File Reply to Saint Thomas Entities' Opposition [Dkt. 1878]
13. TN Clinic Defendants Motion to Compel PSC to Respond to Discovery Served by the Tennessee Clinic Defendants and Motion to Deem Requests Admitted [Dkt. 1830]
- a. Stipulation on Extension of Time for PSC to Respond [Dkt. 1873]
 - b. PSC's Opposition [Dkt. 1887]
14. Plaintiff's motions for consolidation [*Montee v. Ameridose*, Dkt. 37, 13-cv-12657]
15. Ascension Parties' Motion to Certify Dismissal Pursuant to Fed. R. Civ. P. 54(b) [Dkt. 1521] (*oral argument held*)
- a. PSC's Opposition [Dkt. 1568]
- D. Briefing in progress.**
16. Wayne Reed Motion to Set Case for Trial [Dkts. 1882, 1883] (*oral argument requested for June 24 status conference*)
17. Dispositive Motions:
- a. Box Hill Motion to Dismiss [Dkt.1639]
 - i. Stipulation re Motion to Dismiss [Dkt. 1761]
 - b. Dr. Chowdhury's Motion to Dismiss [*Gilliam v. Chowdhury*, 15-cv-1367, Dkt. 11]
 - i. Stipulation re time to respond [Dkt. 1788]
18. Ameridose Motion for Protective Order and to Quash Deposition Notice [Dkts. 1879, 1880]

Dated: May 26, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Kristen A. Johnson, hereby certify that I caused a copy of the above Jointly Proposed Agenda for the May 28, 2015 Status Conference to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: May 26, 2015

/s/ **Kristen A. Johnson**
Kristen A. Johnson, BBO # 667261